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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Mark Clifford Sykes, Sui Juris,  
Plaintiff(s),  
v.

Las Vegas Metropolitan Police  
Department of Clark County Nevada  
(LVMPD), Officer S. Hunt, badge number  
P#17602, Officer Smith, badge number  
P#9643, National Crime Information  
Center (NCIC), et al.  
Defendants.

Case No. 2:21-cv-01479-RFB-DJA

**United States of America's Reply in  
Support of its Motion to Set Aside  
Clerk's Entry of Default Against  
National Crime Information Center  
(NCIC)**

The United States of America files this reply in support of its motion to set aside the clerk's entry of default against National Crime Information Center (NCIC). Plaintiff Mark Clifford Sykes filed an opposition. ECF No. 48. In his opposition, the plaintiff argued that the United States lacked jurisdiction to represent NCIC, because NCIC is not an agency of the United States. *Id.*

NCIC contains criminal history information and is available to police departments nationwide. *Case v. Kitsap County Sheriff's Dept.*, 249 F.3d 921, 924 (9th Cir. 2001). State law enforcement agencies are connected to NCIC through their computer systems. *Id.* NCIC is maintained by the Federal Bureau of Investigation (FBI). *See* 28 U.S.C § 534, *see also* <http://www.fbi.gov/about-us/cjis/ncic>. NCIC is not a person or entity subject to liability. The law defines persons as including natural persons (i.e. human beings) as well as

corporations and political subdivisions. *Vontress v. Jo Gentry*, 2:17-cv-01791-RFB-NJK, 2018 WL 10854569, fn. 1 (citing *Allen v. Clark Cnty. Det. Ctr.*, 2:10-cv-00857-RLH, 2011 WL 197201\*4 (D. Nev. Jan 20, 2011)). Objects, such as an electronic criminal history information system, do not fit within this definition. Therefore, NCIC cannot be a party to a lawsuit, is not subject to liability, and a default judgment cannot be entered against it.

To the extent the plaintiff intends to sue the FBI, as the entity maintaining the NCIC database, he has not named the FBI as a party in his second amended complaint. “A defendant is not obligated to engage in litigation unless...brought under a court’s authority, by formal process.” *Murphy Brothers, Inc. v. Michetti Pipe Stinging, Inc.*, 526 U.S. 344, 347 (1999) (citations omitted). Because the FBI is not a party, there is no service of process pursuant to Federal Rule of Civil Procedure 4(i) (A), (B) and 4(i)(2). Accordingly, neither the FBI nor the United States are obligated to respond to the plaintiff’s second amended complaint.

Accordingly, there is a good cause to set aside the clerk’s entry of default against NCIC under Rule 55(c).

Respectfully submitted this 25th day of July 2023.

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/s/ Virginia T. Tomova  
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